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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,579	01/12/2001	Robert F. Heard	91805001	1809

7590

03/28/2002

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 03/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/759,579

Applicant(s)
ROBERT F. HEARD ET AL.

Examiner
YVONNE M. HORTON

Art Unit
3635



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 12, 2001
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 5, 10-13, 15, 16, 18, and 19 is/are rejected.
- 7) ☒ Claim(s) 3, 6-9, 14, 17, and 20 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☒ The proposed drawing correction filed on 2/28/02 is: a) ☒ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 20) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 3 and 20, the phrase "may" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,2,4,5 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,850,717 to SCHIEDEGGER et al. SCHIEDEGGER et al. discloses the use of a brickmolding (10') including a rectangular portion (20,¹⁰⁰~~106~~,200) having a bottom surface (BS), a top surface (TS), see the marked-up attachment, a flange portion (26) extending beyond the rectangular portion (20,106,200) in parallel relationship to the bottom surface (BS) and a channel

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(CH), see also the marked-up attachment, for receiving a siding member (12) therein. Regarding claim 2, the top surface (TS) is and carries the decorative portion. In reference to claims 4,5 and 10, the flange (26) is formed integrally with the brickmolding (10) and has pre-formed openings (50) to receive a fastener, column 6, lines 3-6 such that the flange (26) is affixed to the building adjacent the bottom surface (BS). Claims 1,2,11-13,15,16 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,090,174 to FRAGALE. Regarding claims 1 and 12, FRAGALE discloses the use of a brickmolding (10) affixed to a fenestration (F), column 4, line 25, for receiving a siding (30) wherein the brickmolding (10) includes a rectangular portion formed by (~~12,16,18~~ and 104) having a bottom surface (BS), see the marked-up attachment, a top surface (130), a flange portion (114) extending beyond the rectangular portion formed by (~~12,16,18~~ and 104) in parallel relationship to the bottom surface (BS) and a channel (128) for receiving the siding member (30) therein. Regarding claims 2 and 13, the top surface (130) is and carries the decorative wood exterior, column 5, line 14 and column 7, lines 29 and 30. In reference to claims 11 and 19, the brickmolding (10) is comprised of a polyvinyl chloride material, (column 3, line 53 and column 5, line 15), and includes a foam insulating material (104). Regarding claims 15 and 16, the flange (114) is formed integrally with the brickmolding (10) such that the flange (114) is affixed to the building adjacent the bottom surface (BS) by a fastener (column 6, line 51).

Claim Rejections - 35 USC § 103

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,090,174 to FRAGALE. As disclosed in paragraph 6 above, FRAGALE discloses the basic claimed brickmolding except for explicitly stating that the fastener is received within a hole. Although a hole is not shown or discussed, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the flange of FRAGALE with openings/holes in order to more readily receive fasteners therethrough.

Allowable Subject Matter

8. Claims 3, 6-9, 14 and 17 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claim 20 is allowed.

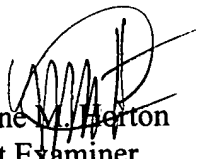
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10. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 3,14 and 20, the prior art of record fails to teach the use of a rectangular brickmolding having an outwardly extending flange forming a channel; wherein the channel further includes a step portion. Although steps are conventional in the art, it would not have been obvious to one having ordinary to modify neither FRAGALE or SCHIEDEGGER to include a step without destroying the intended function of each device.

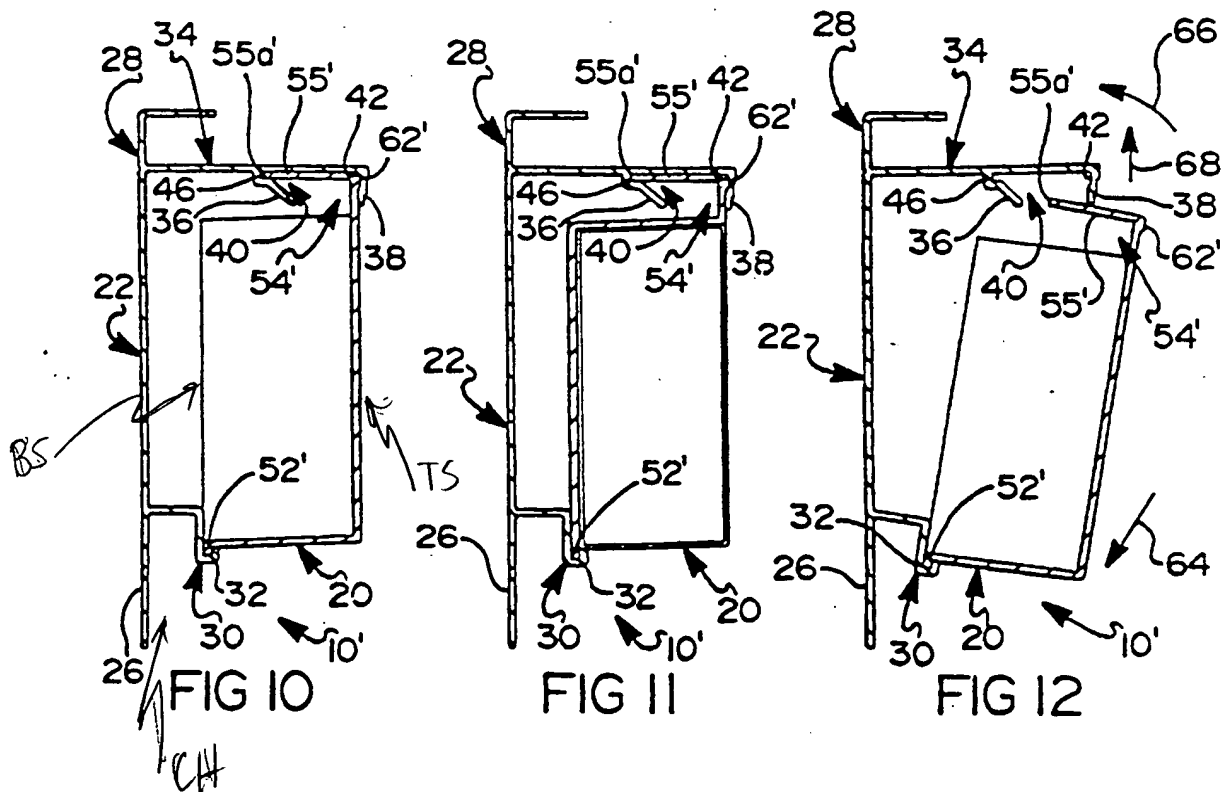
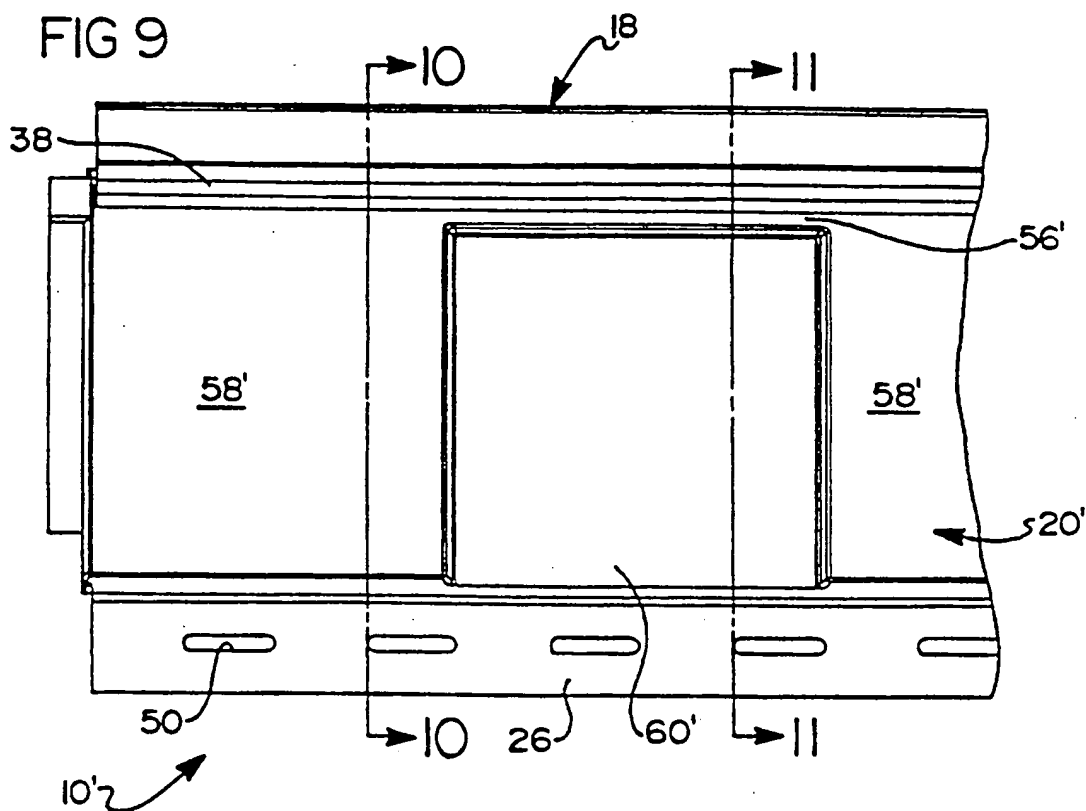
In reference to claims 6-9 and 17, the prior art of record fails to teach the use of a brickmolding including a barb and kerf fastening means which fastens a bottom flange member to the bottom surface of a rectangular molding.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.



Yvonne M. Horton
Patent Examiner
Art Unit 3635
March 24, 2002

FIG 9



United States Patent [19]

Fragale

[11] Patent Number: 5,090,174

[45] Date of Patent: Feb. 25, 1992

[54] SIDING SYSTEM INCLUDING SIDING TRIM
PIECES AND METHOD OF SIDING A
STRUCTURE USING SAME

[76] Inventor: Anthony J. Fragale, 26 4th St.,
McMechan, W. Va. 26040

[21] Appl. No.: 588,466

[22] Filed: Sep. 26, 1990

[51] Int. Cl.⁵ E04F 13/06

[52] U.S. Cl. 52/309.9; 52/287;

52/288; 52/276; 52/309.8

[58] Field of Search 52/242, 716, 287, 288,
52/276, 309.8, 309.9, 612; 156/333, 92; 428/901

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OTHER PUBLICATIONS

Mastic brochure, "T-LOK Vinyl Siding".

ALCOA Brochure, "ALCOA Gutters and Downspouts".

Primary Examiner—James L. Ridgill, Jr.

Attorney, Agent, or Firm—Oliff & Berridge

[57]

ABSTRACT

A siding trim piece has a low gauge layer (preferably metal) of preferably about 0.013 gauge, with a substrate material (preferably foam) laminated to the low gauge layer. An edge of the siding trim piece preferably has an integral J channel. The substrate material is fixed to the structure preferably by an adhesive. A method for siding a structure includes the steps of covering the trim, edges and corners in a structure with the siding trim pieces having an integral J channel, and covering the exterior surfaces with siding by inserting ends of the siding into the J channels of the siding trim pieces to abut the siding with the trim, edges and corners of the structure without interposing a separate intermediate seam covering material between the siding, corners, edges and trim. The invention provides a wood-like appearance and avoids the appearance of discontinuities between the siding and trim, edges and corners of the structure.

22 Claims, 5 Drawing Sheets

